SUPREME COURT, U.S.
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No. 82-412

IN THE

Supreme Court of the United States

October Term, 1982

AMFAC FOODS, INC.,

Petitioner,

v.

ORE-IDA FOODS, INC.,

Respondent.

BRIEF FOR RESPONDENT IN OPPOSITION

JAMES C. MCCONNON
PAUL & PAUL
2900 Two Thousand Market Street
Philadelphia, PA 19103
(215) 568-4900
Counsel for Petitioner

Of Counsel:
EUGENE C. THOMAS
PAUL S. STREET
MOFFATT, THOMAS, BARRETT & BLANTON
Chartered
300 First Security Building
P. O. Box 829
Boise, Idaho 83701
(208) 345-2334

International Printing Co., 311 So. 20th St., Phila., Pa. 19146 — Tel. (215) 735-6711

THE QUESTIONS PRESENTED

This case does not present the questions stated by petitioner.

The first question asks whether a court of appeals is bound by the "clearly erroneous" standard in reviewing a district court's finding on the issue of patent infringement. The Court of Appeals below held that it is bound by the rule, but only as to facts, not questions of law. The decision of the Court below reversing the holding of infringement was properly based on the legal question of the scope of the patent. The facts found by the District Court as to the nature and operation of the accused subject matter were accepted without dispute.

The second question asks whether the court of appeals can arrogate to itself the fact-finding function on the issue of infringement, having determined that the underlying facts are not in dispute. The Court below did not arrogate to itself the fact-finding function but rather accepted the district court's findings of fact, which were not disputed, and properly determined the scope of the patent, which is a legal issue.

PARTIES INVOLVED

The parent and affiliates of respondent are set forth in Appendix A, *infra*, pp. 17 to 19.

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BRIEF FOR RESPONDENT IN OPPOSITION

STATEMENT OF THE CASE

A. Decisions Below

This case involves two combination patents arising from the same application filed on February 24, 1961. The patents had expired as of January, 1981.

The patents were held valid and infringed by Judge Marion Callister, who entered an injunction on October 28, 1980 and ordered an accounting for damages. On November 7, 1980 Judge Callister denied Ore-Ida's motion to stay the injunction. On November 10, 1980 the Court of Appeals for the Ninth Circuit stayed the injunction and reconsideration was denied on November 18, 1980. On January 29, 1981, Judge Callister stayed the accounting proceedings pending review of liability by the Court of Appeals.

On April 2, 1982 the Court of Appeals filed its opinion reversing the judgment of the District Court. On April 14, 1982 Amfac filed a petition for rehearing and suggestion for rehearing *en banc*. The petition was denied on June 17, 1982, the full court having been advised of the suggestion for rehearing en banc and no judge of the court having requested a vote on the suggestion (Petition 25a).

B. The District Court

The "extended" ten-day trial to which petitioner refers involved substantial testimony entirely unrelated to the question of infringement. Considerable testimony was directed to the invalidity and unenforceability of the Amfac patents. The trial also included Ore-Ida's counterclaim based upon entirely different patents.[1]

The question of the scope of the patents was excluded from the trial testimony on the objection of Amfac's counsel who took the position (correctly) that "the law is that the scope of the claim is a matter of law for the court to decide as a matter of law" (Record of Trial Testimony 246). As to the facts relating to infringement, Amfac stated in its post-trial brief in the District Court, pp. 17-18, that there was little, if any "factual" dispute with respect to the Ore-Ida system and its operation and that the system works as described and claimed in the Amfac patents. There was, of course, a substantial legal dispute as to the scope of the invention of the Amfac patents and thus whether the Ore-Ida system fell within that scope; but there was, indeed, little, if any "factual" dispute regarding the nature and operation of the Ore-Ida system.

1. Amfac is presently challenging Ore-Ida's entitlement to its costs in the trial court on the ground that Ore-Ida was not successful in its counterclaim.

The District Court made no determination as to the scope of the patent and no finding that the Ore-Ida box cutter met the claims of the Amfac patents. The Court found that the Amfac patents were combination patents but did not find the elements of the claims in the Ore-Ida Box Cutter system. The Court concluded only that there was substantial similarity and held, as a conclusion of law, that there was equivalence (Petition 19a).

C. The Court of Appeals

On appeal, Ore-Ida sought reversal of the judgment on the ground that the patents were invalid, and especially so if expanded to cover Ore-Ida's system; that the patents were unenforceable because obtained by misrepresentations of fact to the Patent Office; and that the Ore-Ida system did not fall within the scope of the Amfac patents. Ore-Ida also appealed from the refusal of the District Court to admit proffered evidence of prior art properly noticed under the statute 35 USC § 282, and the foreclosure of Ore-Ida's discovery during a period of seven months prior to trial.

The Court of Appeals found noninfringement as a matter of law. Since that ruling was dispositive of the case, the Court did not reach the other issues raised by Ore-Ida. Although, even where noninfringement is found, the Court will usually pass upon the question of patentability, the Court of Appeals did not do so in this case since the patents had already expired. *Texsteam Corporation v. Blanchard,* 352 F. 2d 983, 984 (5th Cir. 1965), cert. denied, 387 U. S. 936, 18 L. Ed. 2d 1000, 87 S. Ct. 2064 (1967).

The decision of noninfringement by the Court of Appeals was based solely upon the Court's determination of the scope of the patents. There was no factual dispute

over the nature and operation of the Ore-Ida system. Ore-Ida did not challenge the District Court's findings as to the nature and operation of its Box Cutter. Rather, Ore-Ida contended that its "Box Cutter" system, as defined by the District Court, did not infringe "since it falls outside the scope of the Amfac patents."

The Court of Appeals determined the scope of the patent as a matter of law and concluded that the Ore-Ida box cutter, as defined by the District Court, did not fall within that scope.

REASONS FOR DENYING THE WRIT

I. The Decision Below Does Not Conflict With the Decisions of This Court

Petitioner contends that the District Court's holding of infringement based on equivalence was a finding of fact pursuant to *Graver Tank & Mfg. Co. v. Linde Air Products Co.*, 339 U. S. 605, 94 L. Ed. 1097, 70 S. Ct. 854 (1950) and that, as such, it was improper for the Court of Appeals to reverse without finding that holding to be clearly erroneous, relying upon the recent decision in *Pullman-Standard v. Swint*, — U. S. —, 72 L. Ed. 2d 66, 102 S. Ct. 1781 (1982).

Petitioner oversimplifies the holding of *Graver Tank*, *supra*, overlooks the established authority cited in that opinion relevant to this case and extends the *Pullman-Standard v. Swint* ruling into an area expressly excluded by the Court.

Petitioner relies upon the statement in *Graver Tank* that "the finding of equivalence is a determination of fact." But, as was true in that case, the "equivalent" must in any event fall within the scope of the patent. The district court in *Graver Tank* pointed out in its opinion that the "equivalent" subject matter was fully disclosed in the specification of the patent itself:

> Thus, the fact that manganese is a proper substitute for calcium silicate as a major ingredient of the welding composition . . . is fully disclosed in the specification of their patent. *Linde Air Products Co. v. Graver Tank Mfg. Co.*, 86 F. Supp. 191, 199 (D. C. Ind., 1947).

Thus, this Court's statement that equivalence is a fact question must be understood to apply on the premise that the equivalent subject matter falls within the scope of the patent. The doctrine of equivalence is applied, as in *Graver Tank*, to prevent piracy of an invention disclosed but not literally claimed in a patent. *Id.*, at 607. The infringement in *Graver Tank* was not the result of an independent development. *Id.*, at 612; *Linde v. Graver*, *supra*, at 200.

The reversal of the District Court by the Court of Appeals in this case, in contrast to *Graver Tank*, was based precisely on the scope of the patent. The Court of Appeals held that the objective of the invention as spelled out in the specification was the automatic separation of "slabs" from center cuts (Petition 2a-3a): "The disclosure in this case unequivocally shows the desired result of automatic separation of long, uniform center cut strips from outside cut 'slabs'." The Court of Appeals also held that the patent defined as a major objective the elimination of the need for manual supervision of the grading process. *Ibid.* The Court then concluded that, since Ore-Ida's Box Cutter "utilizes a manual grading process separate from the cutting process, it does not produce substantially the same result through substantially the same means as does the Amfac device." *Ibid.* The Court of Appeals went on to compare each of the claims in issue with the Ore-Ida Box Cutter *as described in the District Court's Findings of Fact*, and concluded that the claims could not be expanded beyond the scope of the patent by the doctrine of equivalents to cover Ore-Ida's Box Cutter.[2]

2. The decision of the District Court includes no comparison of the elements of the Amfac combination claims with the Ore-Ida Box Cutter to find correspondence. There is no finding, as required for infringement, that each claimed element is found in the accused system. *Washington Scientific Industries Inc. v. Shiley*

The Court of Appeals' construction of the scope of the patent was a legal, not a factual determination. Unlike *Graver Tank*, neither the District Court nor the Court of Appeals in this case found the equivalent in the specification of the patent. Also unlike *Graver Tank*, the District Court in this case found that Ore-Ida's Box Cutter was the result of an "independent development" (Petition 11a).

The application of equivalents has always required the determination that they are within the scope of the patent, which is determined as a matter of law. In the *Graver Tank*, opinion, this Court cited, as authority for the doctrine of equivalents, the holding in *Sanitary Refrigerator Company v. Winters*, 280 U. S. 30, 74 L. Ed. 147, 50 S. Ct. 9 (1929). In that case, at page 36, the Court stated that, although the lower courts had made opposite findings on the question of infringement, since the evidence of infringement was undisputed, the question of infringement and equivalence became one of law:

> Furthermore upon the undisputed evidence the question of infringement resolves itself in each case into one of law, depending upon a comparison between the structure disclosed on the face of the patent and the device shown in the Dent latch, and the correct application thereto of the rule of equivalency.

The determination of the scope of the patent as a matter of law has continued since *Graver Tank, supra.* In *Great A&P Tea Co. v. Supermarket Equipment Corp.*, 340 U. S. 147, 149-150, 95 L. Ed. 162, 71 S. Ct. 127 (1951), the Court rejected the construction of the patent

2. (Cont'd.)

Laboratories Inc., 187 U. S. P. Q. 236, 241 (C. D. Cal. 1975). See also, *Q-Tips, Inc. v. Johnson & Johnson*, 207 F. 2d 509 (3rd Cir. 1953); *Minnesota Mining & Mfg. Co. v. Permacel-LePage's Inc.*, 334 F. 2d 820 (7th Cir. 1964).

by the two lower courts, determined the scope of the patent itself and reversed the holding of validity.

In summary, this Court has consistently maintained that the determination of the scope of the patent monopoly is a question of law and that infringement is a question of law where the facts are not in dispute.

Petitioner seeks to equate the present case to *Pullman-Standard v. Swint, supra,* to place the Ninth Circuit in the position of the Fifth Circuit in that case and thus to posit a conflict calling for review by the Court. In *Pullman-Standard v. Swint,* petitioner referred to other cases coming from the Fifth Circuit to show a Fifth Circuit rule at odds with Rule 52(a). Here, petitioner points to a recent Ninth Circuit case, *CS&M, Inc. v. Covington Brothers Technologies,* 678 F. 2d 118 (9th Cir. 1982), to show that that Circuit generally disregards Rule 52(a) (Petition 7). The citation is erroneous and misleading. In that case the Court of Appeals *affirmed* the District Court's ruling of noninfringement, which the District Court had made as a matter of law on a motion for summary judgment.[3]

The *Pullman-Standard* case turned upon a pure finding of fact—discriminatory intent. It involved neither a question of law, a mixed question of law and fact nor an "ultimate" fact. In *Pullman-Standard* the Court indicated that cases involving mixed questions of law and fact must be decided on a case-by-case basis:

> Rule 52 does not furnish particular guidance with respect to distinguishing law from fact. Nor do we

3. Petitioner's suggestion that the Ninth Circuit is generally out of step on the application of Rule 52(a) is directly contrary to the argument made by petitioner in its petition for rehearing and suggestion of a rehearing en banc to the Court of Appeals. There, petitioner made the same attack on the decision below but argued that the decision was in conflict with the settled law of the Ninth Circuit.

> yet know of any other rule or principle that will unerringly distinguish a factual finding from a legal conclusion. *Id.* at 79.

The Court, in emphasizing that it was not addressing the matter of mixed questions of law and fact, stated that there is support in the Court's decisions for independent appellate review in such cases. *Id.* at 80, n. 19.

The issue of patent infringement, on the other hand, involves a clear question of law—the scope of the patent. It also involves a question of fact—the identity of the accused subject matter. In every case the scope of the patent is determined by the construction placed upon the claims in the light of the patent specification, which is a question of law. Where, as here, the facts are not in dispute, the determination of equivalency and infringement is a question of law. *Sanitary Refrigeration v. Winters, supra.* The distinction between fact and law in patent infringement has long been recognized. *Sanitary Refrigerator v. Winters, supra, Singer Mfg. Company v. Cramer,* 192 U. S. 265, 48 L. Ed. 437, 24 S. Ct. 291 (1904). The scope of the patent monopoly is a question of law, the nature and operation of the accused subject matter is a question of fact. In this case the nature and operation of Ore-Ida's Box Cutter as found by the District Court is not in dispute. The Court of Appeals reversed the holding of infringement on the basis of its determination of the scope of the patent as applied to the facts found by the District Court.

Petitioner's counsel, in the District Court, drew precisely this distinction between the questions of law and fact involved in infringement. Amfac's expert, on cross-examination, was asked: ". . . you did render opinions with respect to the scope of the claims and their alleged infringement, did you not?" At this point, Amfac's counsel objected to the question:

MR. TAYLOR: Your Honor, I object to that because the scope of the claim is a matter of law, and this witness did not give any opinion as to the scope of the patent or to the infringement in quotes.

What the witness testified to was that in his opinion each of the items recited in the claims was found in the Ore-Ida apparatus. That's not a question of scope of the claims. (Record of Trial Testimony, 243-7)

* * *

THE COURT: Is it your viewpoint that testifying that a procedure is within the claim is not testifying to some degree as to the scope of the claim?

MR. TAYLOR: It's certainly testimony going to the infringement of the claim. Maybe I'm getting too technical here, but the law is that the scope of the claim is a matter for the court to decide as a matter of law, and whether or not the claim is infringed; that is, do those things in the claim find their presence also in the accused thing as a matter of fact, and I am objecting to the idea of the scope of the claims, which is not the opinion that he gave.

Certainly his opinion goes to infringement.

THE COURT: I have not tried very many patent cases. I think that's obvious to counsel.

Would you discuss with me a little bit what your understanding of the scope of the claim means?

MR. TAYLOR: Yes, Your Honor. The scope of the claim means the legal metes and bounds of the claims as interpreted as a matter of law, and whether or not that scope as interpreted by the court as a matter of law is sufficient to cover the infringing device is a matter of fact, that infringement is a matter of fact.

> There is a subtle but real difference between the legal concept of the scope of the claim which may be restricted by extraneous matters and the infringement of the claim or the presence of the elements recited in the accused structure which is a matter of fact as to which this witness gave testimony."

The analysis rendered by petitioner's counsel at the trial is correct: the scope of the patent in determining infringement is a legal question.[4]

Petitioner argues that, in the Court of Appeal's decision:

> ". . . there was no suggestion that the district judge used the wrong legal standard and no suggestion that the district judge's findings on the issue of infringement were unreasonable as a matter of law . . ."

This statement is simply wrong. While the District Court did not define the scope of the patents, its conclusions implied a scope broad enough to cover Ore-Ida's Box Cutter. The Court of Appeals clearly rejected that scope as being beyond that permitted by the patent. The Court of Appeals, at the outset of its opinion, defined the basis of its review, namely, that it would determine the scope of the patent, a legal question, and, since the facts are not in dispute, apply its determination to the District Court's findings of fact. (Petition 1a-2a). The Court of Appeals reviewed the legal tests relating to infringement of combination patents. The Court determined the scope of the claims based upon its review of the patent itself. (Petition 2a-3a). The Court compared the Ore-Ida Box Cutter, as found by the District Court, with the claims.

4. Judge Callister found equivalence only as a conclusion of law. (Petition 19a)

The Court finally reiterated that its determination was made as a matter of law:

> . . . the question of the scope of the claims is a question of law, and infringement in this case is also a question of law because the facts are not in dispute. (Petition 4a).

That position conforms to the decisions of this Court and is consistent with the requirements of Rule 52(a).

Because the District Court erred as to a question of law, and the facts were not in dispute, it was proper for the Court of Appeals to make the proper determination on the basis of the facts found by the District Court. *Sanitary Refrigerator Company v. Winters, supra; United States v. Line Material Co.*, 333 U. S. 287, 306, 92 L. Ed. 701, 68 S. Ct. 550 (1948); *United States v. DuPont & Co.*, 353 U. S. 586, 598, 1 L. Ed. 2d 1057, 77 S. Ct. 872 (1957); *United States v. Singer Mfg. Co.*, 374 U. S. 174, 193, 10 L. Ed. 2d 823, 83 S. Ct. 1773 (1963); *United States v. General Motors Corp.*, 384 U. S. 127, 141-142, n. 16, 16 L. Ed. 2d 415, 86 S. Ct. 1321 (1966).

II. There Is Neither Conflict Nor Confusion Among the Circuits Requiring Review by This Court of the Questions Raised by the Petition

Petitioner urges the Court to grant certiorari, apart from the merits of the present case, in order to eliminate conflicts among the circuits over the scope of review of patent infringement. Assuming, *arguendo*, that there are such conflicts, the Congress has acted to resolve them without adding to the burden of review in this Court by creating the Court of Appeals for the Federal Circuit. As the Deputy Attorney General said, representing the Executive Branch at the special inaugural session of the court, it "reflects an imaginative structural reform de-

signed to eliminate circuit conflicts over patent laws."[5] Such conflicts as had existed among the circuits in the past relating to patent cases will now be resolved in the new Court of Appeals and will come to this Court with the "valuable assistance" of that Court of Appeals. See *Tidewater Oil Co. v. United States*, 409 U. S. 151, 169, 34 L. Ed. 2d 375, 93 S. Ct. 408 (1972).

The petition asserts but fails to demonstrate that the question it presents is "a problem which has continued to perplex the lower courts." (Petition 10). Instead the petition refers to cases and authors dealing with the questions of patent *validity* and the likelihood of confusion in *trademark* cases. The question of patent validity that had produced difficulty was the nebulous concept of "invention". That was considerably stabilized by the 1952 Patent Act and the Court's decision in *Graham v. John Deere, Co.*, 383 U. S. 1, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966), defining the factual inquiries to be made before the legal determination of patentability.[6] It is therefore perhaps not coincidental that the cases listed in the footnote to *Moores Federal Practice*, cited by petitioner (Petition p. 10, n. 15), are no more recent than 1960 and that the 1981-1982 supplement to that footnote adds no new cases.

Petitioner argues that "confusion" among the courts of appeals has resulted in an "ever-widening" scope of

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5. Reported at 24 BNA's Patent, Trademark & Copyright Journal, 571, October 7, 1982.

6. In finding the Amfac patents valid in this case, Judge Callister made no findings relating to the level of skill in the art or the scope and content of the prior art. The findings simply list the patents cited by the Patent Office and the claims of the patents in issue, concluding that the presumption of validity has not been overcome and the patents are not invalid for obviousness.

review in patent litigation (Petition p. 11). There has been no confusion and no ever-widening scope of review. The courts of appeals have consistently followed the historic authority of the *Sanitary Refrigerator* and *Singer* cases, *supra*, as did this Court in *Graver Tank*.

It has always been recognized, as Amfac's counsel explained to the District Court in this case (p. 10-11, *supra*), that the determination of the scope of the patent for infringement is a question of law. *Doble Engineering Co. v. Leeds & Northrup Co.*, 134 F. 2d 78 (1st Cir. 1943); *Brothers v. Lidgewood Mfg. Co.*, 223 F. 359 (2nd Cir. 1915); *Methode Electronics, Inc. v. Elco Corp.*, 385 F. 2d 138 (3rd Cir. 1967); *Technitrol, Inc. v. Control Data Corporation*, 550 F.2d 992 (4th Cir. 1977), cert. denied, 434 U. S. 822, 54 L. Ed. 2d 79, 98 S. Ct. 65 (1977); *Ebeling v. Pak-Mor Mfg. Co.*, 683 F. 2d 909 (5th Cir. 1982); *Cold Metal Process Company v. E. W. Bliss Company*, 285 F. 2d 331 (6th Cir. 1960), *cert. denied*, 366 U. S. 911, 6 L. Ed. 2d 235, 81 S. Ct. 1085 (1961); *Super Products Corporation v. D P Way Corporation*, 546 F. 2d 748 (7th Cir. 1976); *Solomon v. Renstrom*, 150 F. 2d 805 (8th Cir. 1945); *Del Francia v. Stanthony Corporation*, 278 F. 2d 745 (9th Cir. 1960); 4 *Deller's Walker on Patents* §230.

It has also always been recognized that, where the facts of infringement are not in dispute, the issue of infringement may be resolved as a matter of law. *Hanovia Chemical & Mfg. Co. v. David Buttrick Co.*, 127 F. 2d 888 (1st Cir. 1942); *Prepayment Car Sales Co. v. Orange County Traction Co.*, 221 F. 939 (2nd Cir. 1915), cert. denied, 238 U. S. 626, 59 L. Ed. 1495, 35 S. Ct. 664 (1915); *Plax Corporation v. Precision Extruders, Inc. et al.*, 239 F. 2d 792 (3rd Cir. 1957); *Smith et al. v. General Foundry Machine Company, Incorporated, et al.*, 174 F. 2d 147 (4th Cir. 1949), cert. denied, 338 U. S. 869, 94

L. Ed. 533, 70 S. Ct. 144 (1949); *Ziegler v. Phillips Petroleum Company*, 483 F. 2d 858 (5th Cir. 1973), cert. denied, 414 U. S. 1079, 38 L. Ed. 2d 485, 94 S. Ct. 597 (1973); *Hurin v. Electric Vacuum Cleaner Co., Inc.*, 298 F. 76 (6th Cir. 1924); *Acme Highway Products Corporation v. D. S. Brown Company*, 473 F. 2d 849 (6th Cir. 1973), cert. denied, 414 U. S. 824, 38 L. Ed. 2d 57, 94 S. Ct. 125 (1973); *Copease Manufacturing Co., Inc. v. American Photocopy Equipment Co.*, 298 F. 2d 772 (7th Cir. 1961); *Young v. Ralston-Purina Company*, 88 F. 2d 97 (8th Cir. 1937); *Del Francia v. Stanthony Corporation, supra; Rothe v. Ford Motor Company*, 253 F. 2d 353 (D. C. 1958).

As demonstrated in the cases cited above, in virtually every circuit, before and after *Graver Tank*, the courts of appeals have drawn the same distinctions this Court has drawn relating to the review of patent infringement. As this Court pointed out in *Pullman-Standard v. Swint, supra*, at n. 80, n. 19 and 82, there is support in the Court's decision for independent review of mixed questions of fact and law and of decisions based on erroneous premises where the facts are readily ascertainable.

The Court of Appeals for the Ninth Circuit acted properly in this case in reversing the holding of infringement upon determining that the District Court had erred as to the scope of the patents since the facts necessary to reach that result, as found by the District Court, were not in dispute.

CONCLUSION

In this case the Court of Appeals has acted within the constraints of Rule 52(a), accepting the District Court's undisputed findings of fact as to the nature and operation of the accused subject matter. The Court of Appeals determined the scope of the patent, properly, as a matter of law, and applied it to the District Court's findings of fact.

The case does not, therefore, present the question of whether Rule 52(a) applies to the review of patent infringement. It is a case in which the Court of Appeals has addressed the mixed questions of law and fact involved in infringement and has properly acted upon its determination of the legal questions applied to the undisputed facts.

JAMES C. MCCONNON
PAUL & PAUL
2900 Two Thousand Market Street
Philadelphia, PA 19103
(215) 568-4900

Counsel for Petitioner

Of Counsel:
EUGENE C. THOMAS
PAUL S. STREET
MOFFATT, THOMAS, BARRETT & BLANTON
Chartered
300 First Security Building
P. O. Box 829
Boise, Idaho 83701
(208) 345-2334

APPENDIX A

List of Affiliates of Respondent

Ore-Ida Foods, Inc., respondent, is a wholly-owned subsidiary of H.J. Heinz Company. Respondent has two wholly-owned subsidiaries.

The following is a list of less than wholly-owned subsidiaries, partnerships or joint ventures, in which H.J. Heinz Company or one of its wholly-owned subsidiaries has an interest:

Heinz-Erin, Ltd.
Country Kitchens Foods, Ltd.
Weight Watchers Switzerland S.A.
W.W. Foods (Europe) Ltd.
Caribbean Restaurants, Inc.
Tahiti Tuna Ventures, S.A.
The Penn Central Corporation
Tri-Arrow Transportation Company Limited
Venatun, S.A.
Yugo American, Inc.
Zadar Fishing Company Ltd.
Zagreb Fishing Company Ltd.
Zeta Fishing Company, Ltd.
Ocean Fishing Gear, Inc.
Pacific King, Inc.
Pantry Pride, Inc.
Pioneer Food Cannery Limited
Pioneer Tuna Fishing Company Limited
Pisces Fishing Company, Inc.
Producton Alimenticios Del Mar, S.A.
Red Star Fisheries Limited
Refrigerated Express Service, Ltd.
R.P. Fishing Company, Inc.

San Simon Fishing Company, Inc.
Scorpio I Fishing Company, Inc.
Societe des Frigorifiques du Sanegal (SOFRIGAL)
Societe des Tahitienne de Pecha (SOTAP)
Anchor Fishing Company, Ltd.
Anthony M. Partnership
Apollo Enterprises Company
Christina C. Partnership, Ltd.
Conqueror Partnership, Ltd.
Conquistador Partnership, Ltd.
Deborah Ann Partnership
Laura Ann Partnership
Liberator Fishing Company
Madelyn Partnership, Ltd.
Mermaid Partnership
M/V Michelangelo
Pacific Princess Partnership, Ltd.
Paramount Limited Partnership
Ronnie M. Partnership
M/V Santa Anita
Sea Hawk Partnership, Ltd.
Sea Wolf Partnership, Ltd.
Southern Explorer Partnership
Captain Manuel J. Souza Partnership
Titaiwoana Partnership, Ltd.
M/V Western Fisher
Claudia B. Fishing Company, Inc.
Compagnie Bretonne de Cargos Frigoritiques (COBRICAF)
Compania Naviera Aztec, S.A.
Compania Pasquera Estrella del Peru, S.A. (COPES)
Delta Fishing Company, Inc.
DMI Furniture, Inc.
Don Juan Fishing Company, Inc.
Entrepots et Transporta Frigerifiquse Polyneziens

Epsilon Fishing Company, Inc.
Eta Fishing Company, Inc.
Fishermens Club of Samoa, Inc.
Frontier Fishing Corporation
Ghana Tuna Fishing Development Co., Ltd.
Goldimex, S.A., de C.V.
International Squid Development Co., Ltd.
Interocann Equipment Corporation
Korea Fisheries, S.A.
Albacore Navigation, S.A.
Albairigo Navigation Co., S.A.
Alpha Fishing Company, Inc.
Apollo Venture, Inc.
Aztec Shipping Company, Inc.
Calafia Shipping Company Limited
Canners Steam Co., Inc.
C & F Fishing, Ltd.
China Marine Overseas, S.A. (CMO)